

DOCUMENT RESUME

00900 - [A1051710]

[Transfer, Real Estate Expenses, Attorney Fees]. B-186254. March 16, 1977. 3 pp.

Decision re: Joseph R. Garcia; by Robert F. Keller, Acting Comptroller General.

Issue Area: Personnel Management and Compensation: Compensation (305).

Contact: Office of the General Counsel: Civilian Personnel.

Budget Function: General Government: Central Personnel Management (805).

Organization Concerned: Animal and Plant Health Inspection Service.

Authority: F.T.R. (PPHR 101-7), para. 2-6.2c. B-183443 (1975). B-179573 (1973). B-176876 (1972). B-176351 (1973).

Orris C. Huet, an Authorized Certifying Officer of the Department of Agriculture, requested decision regarding a reclaim voucher for an employee's claim for fees incurred in the purchase of a residence at his new duty station. Attorney fees of an advisory nature incurred in connection with the purchase of a house upon transfer are not reimbursable, but fees for preparation of the closing statement and for examination of covenants and restrictions on the property are reimbursable. Fees for the certification of occupancy may be allowed provided they do not duplicate a certificate of occupancy already reimbursed. (Author/SC)

00900

KLisa Gramer
Civ. Pers.

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-186254

DATE: March 16, 1977

MATTER OF: Joseph R. Garcia - Transfer, Real Estate
Expenses, Attorney Fees

DIGEST: Employee claimed representational attorney fees and certain inspection fees as real estate expenses incident to transfer of station. Claim for "representation of contract signing" is not allowed since attorney fees of advisory nature incurred in connection with purchase of house upon transfer are not reimbursable under Federal Travel Regulations, para. 2-6.2c (May 1973). Nor is claim for "representation at final closing and preparation of closing statement" allowed, except to the extent that fee represents attorney's work in preparing closing statement. B-183443, July 14, 1975. Charges for examination of covenants and restrictions on property may be viewed as part of title search and as such are reimbursable. Fees for certification of occupancy may be allowed (see B-176351, November 29, 1973), provided they do not duplicate certificate of occupancy already reimbursed under attorney's fees.

Ms. Orris C. Huet, an authorized certifying officer of the Department of Agriculture, by letter of March 26, 1976, requests an advance decision as to whether she may certify a reclaim voucher in the amount of \$335 for payment to Joseph R. Garcia, an employee of the Animal and Plant Health Inspection Service of the Department, who has claimed this amount for certain fees incurred in the purchase of a residence in Long Island, New York, upon his transfer from Rochester, New York, to New York City in March of 1975.

The first question presented is whether the attorney's fees claimed are advisory in nature and therefore not reimbursable under the provisions of the Federal Travel Regulations (FPMR 101-7) para. 2-6.2c (May 1973). Mr. Garcia's legal fees were itemized as follows:

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1. Representation of contract signing	\$200.00
2. Ordering of Search, Survey and Certificate of Occupancy	75.00
3. Representation at final closing and preparation of closing statement	<u>100.00</u>
Total Fee	\$375.00

The agency allowed the claim for Item 2 as a title search specifically reimbursable under FTR para. 2-6.2c. Items 1 and 3 were disallowed because they were considered advisory legal services and thus nonreimbursable under that regulation.

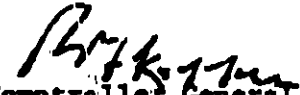
We have held that no reimbursement may be allowed for legal services of an advisory nature, and that only those portions of an attorney's fee that represent services of the kind enumerated in FTR para. 2-6.2c are reimbursable. B-183443, July 14, 1975. Because Item 1, "Representation of contract signing," constitutes a fee for representation and counseling which is advisory in nature, it is not reimbursable. Similarly, that portion of the charges in Item 3 which is attributable to "representation at final closing" may not be reimbursed. B-183443, *supra*; B-179573, December 13, 1973. Although attorneys' fees for preparing closing documents and conducting the same may be authorized for reimbursement (B-176876, November 27, 1972), the record shows that the closing in this case was not conducted by Mr. Garcia's lawyer and that the closing statement was on a form provided by the American Title Insurance Company. Thus, Mr. Garcia may be reimbursed for the services listed in Item 3 only to the extent he can prove them to be attributable to his attorney's work in preparing the closing statement.

The certifying officer also requests a decision as to reimbursement of a \$25 charge for examination of records concerning the covenants and restrictions placed upon the property by Nassau County and a \$10 fee for a certificate of occupancy verifying that the house was livable and safe. The examination of covenants and restrictions on the property may be viewed as

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part of the title search and as such may be reimbursed. See B-179573, supra. The occupancy certification fee is also allowable. (see B-176531, November 29, 1973), provided it can be shown that it does not duplicate the certification of occupancy already reimbursed in Item 2 of the attorney's fees.

The voucher returned herewith may be certified for payment in accordance with the foregoing decision.


Acting Comptroller General.
of the United States